

Circuit Court for Carroll County
Case Nos. 06-C-16-070520 and C-06-FM-21-807527

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND
CONSOLIDATED

No. 72 and 73

September Term, 2021

SARAH M. PRINCE

v.

ANDREW PRINCE

SARAH SANTA MARIA

v.

ANDREW PRINCE

Nazarian,
Shaw Geter,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wright, J.

Filed: November 16, 2021

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Andrew P. (“Father”) filed, in the Circuit Court for Carroll County, an emergency petition to modify custody against Sarah S.M. (“Mother”) regarding the parties’ minor child, L.P.¹ The court granted the motion *ex parte* and issued a temporary order awarding sole physical and legal custody of L.P. to Father. In response, Mother filed a “Motion to Dissolve” the court’s temporary custody order. Shortly thereafter, Father filed a Petition for Protective Order on behalf of L.P. against Mother. The court granted the petition and issued a temporary protective order against Mother. A final protective order hearing was scheduled and held the following week, at which the court took evidence and heard argument on Mother’s Motion to Dissolve the court’s temporary custody order. Following that hearing, the court denied Mother’s motion and awarded custody of L.P. to Father pending an evidentiary trial on Father’s petition to modify custody. The court also issued a final protective order against Mother. Mother thereafter filed this timely appeal, raising two questions, which we have rephrased and reordered for the purposes of this appeal.

They are:

1. Did the trial court err in granting the final protective order?
2. Did the trial court err in denying the Motion to Dissolve?

For reasons to follow, we hold that the trial court did not err. We therefore affirm the judgments of the circuit court.

¹ Mother’s appeal of the custody decision, Case No. 72, September Term 2021, and her appeal of the protective order, Case No. 73, September Term 2021, were consolidated for the purposes of this appeal. In the former case, Mother is referred to by her former name (“Sarah P.”), whereas in the latter case, she is referred to by her current name (“Sarah S.M.”). We shall refer to Mother by her current name.

BACKGROUND

Father and Mother were married and had one child, L.P. In August 2016, the parties divorced. Pursuant to the divorce, the circuit court issued an order granting custody of L.P. to both parties. Sometime later, both Mother and Father remarried.

On January 15, 2021, Father filed an emergency petition to modify custody of L.P., who was eight years old at the time. In that petition, Father alleged, among other things, that Mother was neglecting L.P.; that Mother did not feed or bathe L.P.; that Mother had mental health and substance abuse issues that affected her ability to care for L.P.; that L.P. was “scared” to go to Mother’s house because Mother and her current husband “yell and hit each other;” and that Mother had indicated that she “wants to flee the country” and go to Morocco. Father requested that he be granted sole physical and legal custody of L.P.

That same day, the circuit court issued an *ex parte* order granting Father’s petition. The order was issued pursuant to the court’s “Differentiated Case Management Plan,” which provided that *ex parte* relief could be granted upon a showing of an imminent risk to the child. The court ordered that Father be granted sole legal and physical custody of L.P. for a period of 90 days. The court further ordered that Mother could file a “request to dissolve” the court’s order and that a hearing would be held upon the filing of such a request.

On February 2, 2021, Mother filed an answer denying the allegations in Father’s petition. On February 22, 2021, Mother filed a motion to dissolve the circuit court’s temporary order.

On February 25, 2021, Father filed a petition for protective order on behalf of L.P. against Mother. The petition was based on an incident that had occurred that morning at L.P.’s school bus stop. According to Father, Mother had shown up, unannounced, at L.P.’s school bus stop while L.P. was boarding her bus prior to school. Mother then approached L.P. and tried to hug her, which caused L.P. to become “terrified” and run back to her home, which was near the bus stop. Father claimed that Mother’s actions constituted mental abuse resulting in trauma. Father asked that Mother be prevented from having any contact with L.P.

That same day, the circuit court held a hearing on Father’s petition. The court ultimately granted the petition and issued a temporary protective order. A final protective order hearing was scheduled for March 4, 2021.

Final Protective Order Hearing

At that hearing, the circuit court indicated that it would address the issues in phases. The first phase would focus on whether a prohibited act of abuse had occurred. The second phase would be devoted to the custody issues, including Mother’s motion to dissolve the temporary custody order, and any remaining issues related to the protective order.

Hearing – Phase I

Father’s current wife, Christine P., testified that, on the morning of the incident at the bus stop, she was standing outside of her home, which was adjacent to the bus stop, and was watching L.P. walk down to the bus stop on her way to school. As L.P. neared the stop, Christine P. observed Mother approach L.P. Upon making that observation,

Christine P. told L.P. to “just walk back to the house.” At that point, Mother “started to jog and run to try to come near [L.P.]” According to Christine P., Mother was “yelling at [L.P.] to come to her, to give her a hug, to come here, she was here for her.” Christine P. testified that the school bus driver, who “knows the situation with the emergency custody,” opened her window and told L.P. “to run.” L.P. then went back to her home. Christine P. testified that, when L.P. got back home, she was “shaking” and “crying” and was “absolutely terrified.”

Christine P. testified that she had concerns that Mother might have been trying to kidnap L.P. Christine P. testified that Mother “looked very flustered” and “looked like she was somewhat in a panic.” Christine P. added that, due to concerns over Mother’s mental health and discussions of her “fleeing the country,” L.P. had been instructed to “come right back up to the house” if she happened to encounter Mother outside of Christine P.’s home. Christine P. testified that she had previously obtained a peace order against Mother due to “massive amounts of harassment.” According to Christine P., the peace order precluded Mother from contacting her or being on her property.

Father testified that he was not home at the time of the incident but that he came home shortly after the incident occurred. Father testified that L.P. was “shaken up” and “didn’t understand why this had happened.” Father testified that L.P. “had been doing a lot better with her emotions” but that, since the incident, she had been “a little more anxiety ridden.”

The trial court also accepted into evidence two exhibits. The first exhibit was a report authored by the Carroll County Department of Social Services as part of its investigation into the allegations contained in the petition for protective order. According to that report, Christine P. stated that she had obtained the peace order against Mother because Mother had sent text messages and made social media posts, including videos, “saying she is going to harm [Christine P.] and that she is going to come after her.” Christine P. also reported that, in one of the videos, Mother had “threatened her with a taser/long stun gun, while referencing the [p]eace [o]rder.”

The report also included statements from L.P. in which she indicated that “she does not like when her mom and stepdad yell and fight with each other” and that “her mom sometimes hits her stepdad.” Regarding the incident at the bus stop, L.P. stated that she “froze” when she saw her mom standing at the bus stop. L.P. stated that she was “very confused” because “she was told her mom cannot come near the home.” L.P. stated that she heard Christine P. tell her to run back home, which she did. As she was running, L.P. saw Mother “speed walking towards her saying she just wanted a hug.”

The second exhibit admitted into evidence was a series of text messages sent by Mother to Father and/or Christine P. In those messages, Mother references a trip to Morocco, telling her current husband to “cancel the trip to Morocco.” The text messages also included other references made by Mother regarding a trip she may have been planning to Morocco.

Mother testified that she went to the bus stop to see L.P. and “give her a hug.” Mother testified that she had no intention of taking L.P. Regarding the trip to Morocco, Mother admitted having “discussed” going to Morocco but insisted that she “never actually made a plan.” Mother testified that she did not intend on taking L.P. on the trip.

At the conclusion of the first part of the hearing, the circuit court determined that Father had proven by a preponderance of the evidence that an act of mental abuse had occurred. The court noted that, at the time of the incident at the bus stop, Mother was aware of the existence of the temporary custody order and the peace order involving Christine P. The court also noted that, at the time of the incident, there was “obviously tension between the parties” and that L.P. was made aware of that tension. The court concluded that, given those facts, and given the text messages in which Mother had discussed a trip to Morocco, Mother had “crossed the line” in approaching L.P. at the bus stop.

Hearing – Phase II

At the second phase of the hearing, Mother’s mother, Laura F., testified that she had concerns about Mother’s ability to raise L.P. Laura F. noted Mother’s “anger” and the constant fights between Mother and her current husband. Laura F. testified that, around the time of the issuance of the temporary custody order, she had sent Father a message about her concerns as to Mother’s ability to care for L.P. In that message, which was admitted into evidence, Laura F. stated that she believed it was in L.P.’s best interest for Father to have custody.

Brianna F., Mother’s sister, testified that she had lived with Mother for “about a month” in 2020 but had moved out because of the fighting between Mother and her husband. Brianna F. testified that L.P. had witnessed some of those fights.

Marco M., Laura F.’s long-time partner, testified that, in the approximately 12 years that he had been in a relationship with Laura F., he and Mother had developed “a great relationship.” Marco M. testified that, over the previous year, he had noticed some “behaviors” in Mother that were “concerning.” Regarding those concerns, Marco M. noted that Mother had contacted him and asked if he would accompany her on a trip to Morocco. Marco M. also noted that Mother was “not speaking with family” and “[s]hutting family off.”

Christine P. testified that Mother had been threatening her in videos posted on social media after the peace order was issued. In one video, which was played for the court, Mother references the peace order while waving a tactical flashlight, which Christine P. thought was a stun gun.

Mother testified that she had not seen or spoken with her mother or sister in some time. Mother testified that she made the video in which she referenced the peace order because she was “very passionate about freedom of speech.” Mother testified that she fed and bathed L.P.

Mother later testified that she and her husband had never gotten into a physical fight. Shortly after Mother made that statement, the circuit court asked Mother about the Department of Social Services’ report, in which L.P. had indicated that she had witnessed

physical altercations between Mother and her husband. Mother responded by suggesting that she did not think L.P.’s recollection of events was accurate. The court then confronted Mother with a verified pleading that she had filed against her husband on February 24, 2021. In that pleading, Mother sought emergency custody of her 14-month-old son and claimed that her home life was not stable and that her husband had been physical with her. When the court asked Mother to reconcile those allegations with her trial testimony, Mother responded that, at the time she filed the pleading, she thought that she “was doing the right thing for [her] son” and that, in retrospect, she “wish [she] hadn’t done it.”

In the end, the circuit court granted Father’s petition for a final protective order against Mother. The court noted that, at the time of the incident at the bus stop, the court had already issued two orders involving Mother: the peace order, which required that Mother not have contact with Christine P. or come on her property; and the temporary custody order, which granted Father emergency custody of L.P. The court explained that, in light of those orders, Mother’s decision to show up at L.P.’s bus stop was “erratic behavior” and was concerning to the court. The court also noted Mother’s planned trip to Morocco and found that her act of going to the bus stop suggested “that there could be a potential child abduction occurring.” The court found that Mother’s decision was a “calculated act” and resulted in L.P. running to her home and becoming “visibly shaken and upset.” The court found that, under the circumstances, “this was an act of mental abuse.”

The circuit court also denied Mother’s motion to dissolve the temporary custody order. In so doing, the court highlighted the testimony of Laura F., Brianna F., and Marco M., all of whom had suggested that Mother had been engaging in “erratic behavior” and had created an “unstable home environment” for L.P. The court also noted the evidence concerning Mother’s planned trip to Morocco, which gave rise “to a reasonable concern that there was a potential for removing [L.P.] from the state.” The court found that those factors were sufficient to award temporary custody pursuant to the emergency order.

As for custody of L.P. going forward, the circuit court explained that it was “concerned candidly with credibility issues from [Mother],” noting that there was a “substantial contradiction” between her testimony and the statements she made in the complaint for custody she filed against her current husband. The court further explained that Mother was prone to “erratic” and “impetuous” behavior. The court noted Mother’s decision to post an online video regarding the peace order, which the court characterized as being “100 percent targeted” at Christine P. The court also noted Mother’s decision to go to L.P.’s bus stop, which was, according to the court, “guaranteed to cause an emotionally traumatizing event for [L.P.] and all involved.” The court found that Mother lacked stability and credibility and that there was “a lack of a stable home environment there.” For those reasons, the court ordered that Father be given full custody pending a trial on the merits on his petition to modify custody and that Mother be allowed supervised visitation twice per week.

DISCUSSION

I.

Mother first contends that the trial court erred in granting the final protective order. Specifically, Mother contends that the court erred in finding that her act of going to L.P.’s bus stop constituted “mental abuse.” We disagree and hold that the court did not err.

“A petitioner may seek relief from abuse by filing with a court ... a petition that alleges abuse of any person eligible for relief by the respondent.” Md. Code, Family Law § 4-504(a)(1). The statute defines a “[p]erson eligible for relief” to include “a person related to the respondent by blood, marriage, or adoption[.]” Md. Code, Fam. Law § 4-501(m)(3). When the person eligible for relief is a child under the age of 18 years, “abuse” is defined to include “the physical or mental injury of a child under circumstances that indicate that the child’s health or welfare is harmed or at substantial risk of being harmed by ... a parent[.]” Md. Code, Fam. Law § 5-701(b)(1)(i); *see also* Md. Code, Fam. Law § 4-501(b)(2). “‘Mental injury’ means the observable, identifiable, and substantial impairment of a child’s mental or psychological ability to function caused by an intentional act or series of acts, regardless of whether there was an intent to harm the child.” Md. Code, Fam. Law § 5-701(r).

“If, after a hearing on a petition, whether *ex parte* or otherwise, a judge finds that there are reasonable grounds to believe that a person eligible for relief has been abused, the judge may enter a temporary protective order to protect any person eligible for relief from abuse.” Md. Code, Fam. Law § 4-505(a)(1). Upon the issuance of a temporary protective

order, the judge may subsequently issue a final protective order, but not before the respondent is given the opportunity to be heard at a final protective order hearing. Md. Code, Fam. Law § 4-506(a) and (c). Upon proceeding with such a hearing, “if the judge finds by a preponderance of the evidence that the alleged abuse has occurred, or if the respondent consents to the entry of a protective order, the judge may grant a final protective order to protect any person eligible for relief from abuse.” Md. Code, Fam. Law § 4-506(c)(1)(iii).

“The petitioner bears the burden of showing ... that the alleged abuse occurred.” *Barton v. Hirshberg*, 137 Md. App. 1, 21 (2001). In reviewing the trial court’s determination as to whether the alleged abuse had occurred, “we accept the facts as found by the [trial] court unless it is shown that its findings are clearly erroneous.” *Id.* (citation and quotations omitted). In addition, “[w]e leave the determination of credibility to the trial court, who has the opportunity to gauge and observe the witnesses’ behavior and testimony during the trial.” *Id.* (citation and quotations omitted).

We hold that Father met his burden of proving by a preponderance of the evidence that Mother’s act of going to L.P.’s bus stop resulted in mental injury. Prior to the incident at the bus stop, a peace order had been issued that prevented Mother from entering Christine P.’s property, which was adjacent to the bus stop. In addition, there were allegations that Mother had mental health and substance abuse issues, that L.P. was “scared” to go to Mother’s house, and that Mother was intending to “flee the country.” Those allegations led to the issuance of the emergency custody order, which granted Father sole physical and

legal custody of L.P. L.P. apparently was aware, at least in part, of those ongoing issues and had been instructed to “come right back up to the house” if she were to encounter Mother outside of Christine P.’s home.

When L.P. ultimately did encounter Mother at the bus stop outside of Christine P.’s home on the day of the incident, she “froze” and started running toward the house. Around the same time, both Christine P. and L.P.’s school bus driver told L.P. to go back home. Mother, who according to Christine P. “looked very flustered” and “somewhat in a panic,” nevertheless pursued L.P. while pleading for L.P. “to give her a hug.” When L.P. arrived back home, she was “shaking” and “crying” and was “absolutely terrified.” According to Father, L.P. had developed anxiety issues following the incident.

From that, we hold that there was sufficient evidence for the trial court to find that Mother’s actions during the incident at L.P.’s bus stop constituted “mental abuse.” Mother’s public act of accosting and then pursuing her eight-year-old child outside of Christine P.’s home caused observable, identifiable, and substantial impairment of L.P.’s mental or psychological ability to function under circumstances that indicated that L.P.’s health or welfare was harmed or at substantial risk of being harmed. As such, we hold that the court did not err in granting the final protective order.

II.

Mother next claims that the trial court erred in not dissolving the emergency custody order. Mother contends that none of the court’s findings was supported by the evidence.

Mother also claims that the court erred in granting custody of L.P. to Father and in limiting her access to supervised visitations.

Appellate review of a trial court’s decision regarding child custody involves three interrelated standards. First, any factual findings made by the court are reviewed for clear error. *In re Yve S.*, 373 Md. 551, 586 (2003). Second, any legal conclusions made by the court are reviewed *de novo*. *Id.* Finally, if the court’s ultimate conclusion is “founded upon sound legal principles and based upon factual findings that are not clearly erroneous, the [court’s] decision should be disturbed only if there has been a clear abuse of discretion.” *In re J.J.*, 231 Md. App. 304, 345 (2016) (citation and quotations omitted). “A decision will be reversed for an abuse of discretion only if it is well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.” *Id.* (citations and quotations omitted).

Generally, the circuit court has jurisdiction over the custody and visitation of a child. Md. Code, Fam. Law § 1-201(b). In exercising that jurisdiction, the court may “direct who shall have the custody or guardianship of a child, *pendente lite* or permanently[.]” and may “determine who shall have visitation rights to a child[.]” Md. Code, Fam. Law § 1-201(c)(1) and (2). “This jurisdiction is a continuing one, and the court may from time to time set aside or modify its decree or order concerning the child.” *Ross v. Hoffman*, 280 Md. 172, 174 (1977).

During such a proceeding, “if the court has reasonable grounds to believe that a child has been abused or neglected by a party to the proceeding, the court shall determine

whether abuse or neglect is likely to occur if custody or visitation rights are granted to the party.” Md. Code, Fam. Law § 9-101(a). “Unless the court specifically finds that there is no likelihood of further child abuse or neglect by the party, the court shall deny custody or visitation rights to that party, except that the court may approve a supervised visitation arrangement that assures the safety and the physiological, psychological, and emotional well-being of the child.” Md. Code, Fam. Law § 9-101(b). The preponderance of the evidence standard applies to the court’s determination of whether there are reasonable grounds to believe that a child has been abused by a parent. *Baldwin v. Baynard*, 215 Md. App. 82, 106 (2013). If the court finds that there are reasonable grounds to believe that a child has been abused by a parent, then that parent has the burden of persuading the court that there is no likelihood of further abuse before the court can award custody or visitation rights to that parent, except that the court may approve supervised visitation pursuant to § 9-101(b). *Id.*

That said, the trial court is “not required to base its decision regarding supervised visitation solely on § 9-101 of the Family Law Article.” *Id.* at 108. Rather, the court’s primary consideration should be the best interest of the child. *Id.* As the Court of Appeals has explained:

Pursuant to the doctrine of *parens patriae*, the State of Maryland has an interest in caring for those, such as minors, who cannot care for themselves. We have held that the best interests of the child may take precedence over the parent’s liberty interest in the course of a custody, visitation, or adoption dispute. That which will best promote the child’s welfare becomes particularly consequential where the interests of a child are in jeopardy, as is often the case in situations involving sexual, physical, or emotional abuse by a parent. As we [have] stated . . . , the child’s welfare is a consideration that

is of transcendent importance when the child might otherwise be in jeopardy. Therefore, visitation may be restricted or even denied when the child’s health or welfare is threatened.

In re Mark M., 365 Md. 687, 705-06 (2001) (citations and quotations omitted).

Against that backdrop, we hold that the trial court did not err in refusing to dissolve the emergency custody order or in granting Father custody of L.P. while limiting Mother’s visitation rights pending trial on the merits on Father’s motion to modify custody. As discussed in Part I, the court had reasonable grounds to believe that L.P. had been abused by Mother. Thus, before the court could award custody or visitation to Mother, Mother was required to prove, and the court was required to find, that there was no likelihood of further abuse. Mother made no such showing, and the court made no such finding. The court was therefore required to deny custody and visitation to Mother pursuant to § 9-101. The court was, however, permitted to approve a supervised visitation arrangement that assured the safety and well-being of L.P. That is precisely what the court did.

Even without the strictures of § 9-101, we cannot say that the court erred in finding that a supervised visitation arrangement was appropriate. In making that determination, the court expressed concerns about Mother’s credibility and sincerity regarding her assurances that there had never been any physical altercations between her and her husband. The court found that those claims were at odds with claims Mother had made in the emergency custody complaint she had filed against her husband shortly before the hearing. The court, citing the testimony of Laura F., Brianna F., and Marco M., also found that Mother had been engaging in “erratic behavior” and had created an “unstable home

environment.” The court was particularly concerned with Mother’s behavior following the issuance of the peace order and the emergency custody order. The court noted Mother’s decision to post an online video about the peace order and Mother’s decision to accost L.P. at her bus stop. The court found that the online video was “100 percent targeted” at Christine P. and that the incident at the bus stop was “guaranteed to cause an emotionally traumatizing event for [L.P.] and all involved.”

Clearly, the trial court found that Mother’s behavior and home environment threatened L.P.’s health or welfare. As a result, the court determined that a supervised visitation arrangement was appropriate, at least until the court could hold a trial on the merits on Father’s petition to modify custody. We are convinced that the court did not abuse its discretion in making that determination.

**JUDGMENTS OF THE CIRCUIT COURT
FOR CARROLL COUNTY AFFIRMED;
COSTS TO BE PAID BY APPELLANT.**